

Express Mail Label No. EL00822715US

Date of Deposit 10/19/00

PATENT

Attorney Docket No. 17682A-005100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:)

U.S. Patent No. 5,824,796)

Inventors: Charles R. Petrie, Rich B. Meyer,
John C. Tabone and Gerald D. Hurst)

Serial No.: Not yet assigned)

Filed: Herewith)

For: CROSS-LINKING
OLIGONUCLEOTIDES)

REISSUE DECLARATION UNDER
37 C.F.R. § 1.175(a) AND POWER OF
ATTORNEY

BOX REISSUE APPLICATION

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

We, Charles R. Petrie, Rich B. Meyer, John C. Tabone and Gerald D. Hurst
declare as follows:

1. Charles R. Petrie of 18459 NW 196th Place, Woodinville, Washington 98072, Rich B. Meyer of 3739 Hamilton Way, Redwood City, California 94062, John C. Tabone of 12117 NE 166th Place, Bothell Washington 98011 and Gerald D. Hurst of *address unknown*, are citizens of the United States of America.

2. The entire right, title, and interest to U.S. Patent No. 5,824,796, issued October 20, 1998, is vested in Epoch Biosciences, Inc., a Delaware corporation, by assignment. Epoch Biosciences, Inc. has a regular and established place of business in Redmond, Washington 98052. An assignment from us to Microprobe Corporation (now Epoch Biosciences, Inc.) was recorded on October 26, 1988 at Reel 4963, Frame 220 for parent application Serial No. 250,474 and on July 24, 1989 at Reel 5162, Frame 48 for parent application Serial No. 353,857.

3. We are the original, first and joint inventors of the invention described and claimed in the above-identified United States Letters Patent and the claims added by the above referenced reissue application, for which invention we seek a reissue of the aforesaid Letters Patent.

4. We do not know and do not believe that said invention was ever known or used in the United States of America before our invention thereof.

5. We do not know and do not believe that said invention was in public use more than one year prior to filing the original application for U.S. Patent No. 5,824,796.

6. We do not know and do not believe that the invention was on sale, within the meaning of 35 USC 102(b), in this country more than one year prior to the filing date of said original application.

7. We also believe the original patent to be partly or wholly inoperative or invalid because of error without deceptive intent on our part. We believe the original patent to be partly or wholly inoperative or invalid because we claimed less than that to which we had a right to claim in the patent. In particular we believe that it was error not to include those compounds in which the linking groups between the nucleic acid bases and the reporter groups were unsaturated alkyl chains, such as for example, C₂-C₁₂ alkenylene and C₂-C₁₂ alkynylene in the original patent. New claims 16 through 44 are now added as reissue claims. The errors which resulted in this application for reissue and resulted in such claims not being included in the original patent arose due to our failure to appreciate the extent to which the original claims included elements which unduly limited the scope of protection afforded our invention. Our original patent claims, see claims 1-15, for example, contained claims to oligonucleotides and compounds in which crosslinking groups and reporter groups are attached to the oligonucleotide or compound via a saturated alkylene chain that is optionally interrupted by a heteroatom (e.g., O, NH or S). We believe we are also entitled to claims drawn to intermediates in the preparation of the claimed compounds that terminate in a heteroatom or protected form thereof.

8. More specifically, in the original application, we failed to recognize and appreciate features and combinations of the invention which we invented and which we believe are patentable over the prior art. We have added new claims 16-44 to other oligonucleotides and compounds of modified pyrazolo[3,4-d]pyrimidines and other pyrimidine bases to correct our error in not so claiming in our original patent. We believe this occurred in part because our preferred embodiment was the cross-linking oligonucleotides, and we failed to recognize that certain intermediates and other species of labeled compounds and oligonucleotides could be claimed.

9. We have reviewed and understand the contents of the attached specification and claims, including the new claims as presented in this application for reissue of the original Letters Patent.

10. We acknowledge the duty to disclose information of which we are aware and which is material to the examination of this application for reissue of the original Letters Patent in accordance with 37 C.F.R. § 1.56.

11. The aforementioned errors in claiming less than we had a right to claim arose without any deceptive intention on our part and was only recognized as a result of comparing the issued claims with the business interests of Epoch Pharmaceuticals, Inc., now Epoch Biosciences, Inc.

12. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

13. We hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: William M. Smith, Reg. No. 30,223, William B. Kezer, Reg. No. 37,369, Eugenia Garrett-Wackowski, Reg. No. 37,330, Joseph R. Snyder, Reg. No. 39,381 and Kevin L. Bastian, Reg. No. 34,774.

14. Please send all correspondence to Townsend and Townsend and Crew LLP, ATTN: William B. Kezer, Two Embarcadero Center, 8th Floor, San Francisco, California 94111-3834. Direct all telephone calls to Mr. Kezer at (415) 576-0200.

15. This declaration may be executed in counterpart and by copy with the same force and effect as if executed as one complete and integrated document.

Full name of first inventor: Charles R. Petrie

Inventor's signature: Charles R. Petrie 10/16/2000

Date: 10/16/2000 Country of Citizenship: U.S.A.

Residence: 18459 NW 196th Place, Woodinville, Washington 98072

Full name of second inventor: Rich B. Meyer

Inventor's signature: _____

Date: _____ Country of Citizenship: U.S.A.

Residence: 3739 Hamilton Way, Redwood, California 94062

Full name of third inventor: John C. Tabone

Inventor's signature: _____

Date: _____ Country of Citizenship: U.S.A.

Residence: 12117 NE 166th Place, Bothell Washington 98011

Full name of third inventor: Gerald D. Hurst

Inventor's signature: _____

Date: _____ Country of Citizenship: U.S.A.

Residence: *Unknown*

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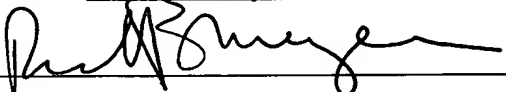
Full name of first inventor: Charles R. Petrie

Inventor's signature: _____

Date: _____ Country of Citizenship: U.S.A.

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Inventors: Charles R. Petrie, Rich B. Meyer,
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Inventor's signature: _____

Date: _____ Country of Citizenship: U.S.A.

Residence: 18459 NW 196th Place, Woodinville, Washington 98072

Full name of second inventor: Rich B. Meyer

Inventor's signature: _____

Date: _____ Country of Citizenship: U.S.A.

Residence: 3739 Hamilton Way, Redwood, California 94062

Full name of third inventor: John C. Tabone

Inventor's signature: John C. Tabone

Date: 10/17/00 Country of Citizenship: U.S.A.

Residence: 12117 NE 166th Place, Bothell Washington 98011

Full name of third inventor: Gerald D. Hurst

Inventor's signature: _____

Date: _____ Country of Citizenship: U.S.A.

Residence: *Unknown*

SF1142663

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PATENT
17682A-005100

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:

Petrie et al.

Patent No.: 5,824,796

Issued: October 20, 1998

Application No.: Not Yet Assigned

Filed: Herewith

For: **CROSS-LINKING
OLIGONUCLEOTIDES**

REISSUE APPLICATION ASSENT BY
THE ASSIGNEE AND OFFER TO
SURRENDER PATENT

BOX REISSUE APPLICATION
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The undersigned assignee, Epoch Biosciences, Inc., of the accompanying reissue application for the reissue of letters patent entitled "CROSS LINKING OF OLIGONUCLEOTIDES," U.S. Patent No. 5,824,796, granted October 20, 1998, of which Epoch Biosciences, Inc. is the sole owner by assignment, and on whose behalf and with whose assent the accompanying reissue application is made, hereby offers to surrender said Letters Patent. An order for title report is enclosed herewith.

EPOCH BIOSCIENCES, INC.

Date: 16 Oct 2000

By: William G. Gerber

Name: William G. Gerber

Title: CEO

SF1142430

10853 U.S. PTO
09/693213
10/19/00

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PATENT
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:

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Patent No.: 5,824,796

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For: **CROSS-LINKING
OLIGONUCLEOTIDES**

ASSENT BY ASSIGNEE FOR FILING
REISSUE APPLICATION, AND
STATEMENT UNDER 37 C.F.R. § 3.73(b)

BOX REISSUE APPLICATION
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Epoch Biosciences, Inc. is the assignee of one hundred percent (100%) interest in the above-identified original United States patent. Epoch Biosciences, Inc. hereby assents to the accompanying application for reissue.

Epoch Biosciences, Inc.

By: W. S. Suler

Date: 16 OCT 2000

SF1142727

Jc853 U.S. PTO
09/693213



項目	2000年	2001年	2002年	2003年	2004年	2005年	2006年	2007年	2008年	2009年	2010年	2011年	2012年	2013年	2014年	2015年	2016年	2017年	2018年	2019年	2020年	2021年	2022年	2023年	2024年	2025年	2026年	2027年	2028年	2029年	2030年	2031年	2032年	2033年	2034年	2035年	2036年	2037年	2038年	2039年	2040年	2041年	2042年	2043年	2044年	2045年	2046年	2047年	2048年	2049年	2050年	2051年	2052年	2053年	2054年	2055年	2056年	2057年	2058年	2059年	2060年	2061年	2062年	2063年	2064年	2065年	2066年	2067年	2068年	2069年	2070年	2071年	2072年	2073年	2074年	2075年	2076年	2077年	2078年	2079年	2080年	2081年	2082年	2083年	2084年	2085年	2086年	2087年	2088年	2089年	2090年	2091年	2092年	2093年	2094年	2095年	2096年	2097年	2098年	2099年	2100年	2101年	2102年	2103年	2104年	2105年	2106年	2107年	2108年	2109年	2110年	2111年	2112年	2113年	2114年	2115年	2116年	2117年	2118年	2119年	2120年	2121年	2122年	2123年	2124年	2125年	2126年	2127年	2128年	2129年	2130年	2131年	2132年	2133年	2134年	2135年	2136年	2137年	2138年	2139年	2140年	2141年	2142年	2143年	2144年	2145年	2146年	2147年	2148年	2149年	2150年	2151年	2152年	2153年	2154年	2155年	2156年	2157年	2158年	2159年	2160年	2161年	2162年	2163年	2164年	2165年	2166年	2167年	2168年	2169年	2170年	2171年	2172年	2173年	2174年	2175年	2176年	2177年	2178年	2179年	2180年	2181年	2182年	2183年	2184年	2185年	2186年	2187年	2188年	2189年	2190年	2191年	2192年	2193年	2194年	2195年	2196年	2197年	2198年	2199年	2200年	2201年	2202年	2203年	2204年	2205年	2206年	2207年	2208年	2209年	2210年	2211年	2212年	2213年	2214年	2215年	2216年	2217年	2218年	2219年	2220年	2221年	2222年	2223年	2224年	2225年	2226年	2227年	2228年	2229年	2230年	2231年	2232年	2233年	2234年	2235年	2236年	2237年	2238年	2239年	2240年	2241年	2242年	2243年	2244年	2245年	2246年	2247年	2248年	2249年	2250年	2251年	2252年	2253年	2254年	2255年	2256年	2257年	2258年	2259年	2260年	2261年	2262年	2263年	2264年	2265年	2266年	2267年	2268年	2269年	2270年	2271年	2272年	2273年	2274年	2275年	2276年	2277年	2278年	2279年	2280年	2281年	2282年	2283年	2284年	2285年	2286年	2287年	2288年	2289年	2290年	2291年	2292年	2293年	2294年	2295年	2296年	2297年	2298年	2299年	2300年	2301年	2302年	2303年	2304年	2305年	2306年	2307年	2308年	2309年	2310年	2311年	2312年	2313年	2314年	2315年	2316年	2317年	2318年	2319年	2320年	2321年	2322年	2323年	2324年	2325年	2326年	2327年	2328年	2329年	2330年	2331年	2332年	2333年	2334年	2335年	2336年	2337年	2338年	2339年	2340年	2341年	2342年	2343年	2344年	2345年	2346年	2347年	2348年	2349年	2350年	2351年	2352年	2353年	2354年	2355年	2356年	2357年	2358年	2359年	2360年	2361年	2362年	2363年	2364年	2365年	2366年	2367年	2368年	2369年	2370年	2371年	2372年	2373年	2374年	2375年	2376年	2377年	2378年	2379年	2380年	2381年	2382年	2383年	2384年	2385年	2386年	2387年	2388年	2389年	2390年	2391年	2392年	2393年	2394年	2395年	2396年	2397年	2398年	2399年	2400年	2401年	2402年	2403年	2404年	2405年	2406年	2407年</
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Epoch Biosciences, Inc.

Date: 16 OCT 2000

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) & 1.27(c)) - SMALL BUSINESS CONCERN

Applicant or Patentee: Charles R. Petrie, Rich B. Meyers, John C. Tabone and Gerald D. Hurst
 Application or Patent No.: 5,824,796
 Filed or Issued: October 20, 1998
 Title: CROSS-LINKING OLIGONUCLEOTIDES

I hereby declare that I am:

- ☐ the owner of the small business concern identified below:
☐ an official of the small business concern empowered to act on behalf of the concern identified below.

Name of Small Business Concern: Epoch Biosciences, Inc.
 Address of Small Business Concern: 12277 134th Court NE Suite 110
Redmond, WA 98052

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees to the United States Patent and Trademark Office, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled **CROSS-LINKING OLIGONUCLEOTIDES** by inventor(s) **Charles R. Petrie, Rich B. Meyer, John C. Tabone and Gerald D. Hurst** described in:

- ☐ the specification filed herewith;
☐ Application No. _____, filed _____;
☐ Patent No. _____, issued _____.

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights in the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern that would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

Name: _____
 Address: _____

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

Name: _____
 Address: _____

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Name of Person Signing: William G. Gerber, M.D.
 Title of Person if Other than Owner: Chief Executive Officer
 Address of Person Signing: 12277 134th Court NE Suite 110
Redmond, WA 98052

Signature:  Date: 16 OCT 2000